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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/552,776	10/12/2005	Jakob Gerrit Nijboer	NL030432US1	2130
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P.O. BOX 3001				
BRIARCLIFF MANOR, NY 10510				
EXAMINER				
CHU, KIM KWOK				
ART UNIT		PAPER NUMBER		
2627				
NOTIFICATION DATE		DELIVERY MODE		
07/08/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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Office Action Summary

Application No.

10/552,776

Applicant(s)

NIJBOER ET AL.

Examiner

KIM-Kwok CHU

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Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on RCE filed on April 6, 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10/21/2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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Continued Examination after Final Rejection

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on April 6, 2010 has been entered.

Claim Objections

2. Claims 1, 4, 7 and 8 are objected to because of the following informalities:

(a) in claim 1, lines 19 and 20, the term "written and free areas" should be changed to --written and free areas of the write-once storage medium--;

(b) in claim 1, last line, the term "respective track defect" should be changed to --respective track defect of the write-once storage medium--; and

(c) Similarly, in each of Claims 1, 4, 7 and 8, the term "written and free areas" should be changed to --written and free areas of the write-once storage medium-- and the term

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"respective track defect" should be changed to --respective track defect of the write-once storage medium--.

Appropriate correction is required.

35 U.S.C. 101 Claim Rejection

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 8-10 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Claims 8-10 are drawn to a "computer program" *per se*, therefore, fail to fall within a statutory category of invention. A claim directed to a computer program itself is non-statutory because it is not a process occurring as a result of executing the program, or a machine programmed to operate in accordance with the program, or a manufacture structurally and functionally interconnected with the program in a manner which enable the program to act as a computer component and realize its functionality, or a composition of matter. In this case the "computer program product" in line one claimed as computer listings *per se*, i.e., the descriptions or expressions of the programs are not physical "things." They are neither computer components nor statutory processes, as they are not "acts" being

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performed. Such claimed computer programs do not define any structural and functional interrelationships between the computer program and other claimed elements of a computer, which permit the computer program's functionality to be realized.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding Claim 1, the amended "space bit map indicates written and free areas" and the "defect management structures indicating the locations of rewritten data" in the last paragraph is not clear. Since the claimed "data structure" having "space bit map" is recorded in the claimed "predefined temporary location" and "defect management structures" are recorded in the claimed "predefined fixed location" during the finalized operation (line 11), it is not clear whether or not the "defect management structures" are written to the

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"predefined fixed location" before the finalization of the claimed 'write- once storage medium". In other words, during a recording/finalization of data and data structures operation, it is not clear when (simultaneously or different occasions) the "space bit map" and the "defected management structures are written to the "write-once storage medium".

Similarly, in each of the amended Claims 4 and 8, it is not clear whether or not the "defect management structures" are written to the "predefined fixed location" before the finalization of the claimed 'write-once storage medium". In other words, during a recording/finalization of data and data structures operation, it is not clear when (simultaneously or different occasions) the "space bit map" and the "defected management structures are written to the "write-once storage medium".

Regarding Claim 7, first two lines, the phrase "A write-once storage medium that is finalized" is vague. It is not clear whether or not the "defect management structures" are written to the "predefined fixed location" before the finalization of the claimed 'write-once storage medium". In other words, during a recording/finalization of data and data structures operation, it is not clear when (simultaneously or different occasions) the "space bit map" and the "defected

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management structures are written to the "write-once storage medium".

The claims not specifically mentioned above are rejected because these claims are dependent on the rejected base claims.

Allowable Subject Matter

6. Claims 1-7 would be allowable if rewritten to overcome the rejection under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

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7. The following is an Examiner's statement of reasons for the indication of underlined allowable subject matter based on Amendment filed on March 8, 2010:

Regarding Claim 1, a device for recording data and data structures on a write-once storage medium, the data structures comprising space bit map and defect management structures, the device comprising writing means for recording the data and the data structures; controlling means for generating the data structures and controlling the writing means; wherein the controlling means are adapted to control the writing means to record the data structures on the write-once storage medium at a predefined temporary location in a reserved area on the write-once storage medium and to finalize the write-once storage medium by recording the data structure on the write-once storage medium at a predefined fixed location on the write-once storage medium, wherein the predefined fixed location is a location on the write-once storage medium that corresponds to a location that is predefined for a rewritable storage medium, wherein the predefined fixed location is a different location on the write-once storage medium than the predefined temporary location, and wherein the space bit map indicates written and free areas, the

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defect management structures indicating the locations of rewritten data for respective track defects.

Regarding Claim 4, A method of recording data and data structures on a write-once storage medium, the data structures comprising space bit map and defect management structures, the method comprising acts of:

recording the data on the write-once storage medium;
recording the data structures on the write-once storage medium at a predefined temporary location in a reserved area on the write-once storage medium, and wherein the space bit map indicates written and free areas, the defect management structures indicating the locations of rewritten data for respective track defects; finalizing the write-once storage medium by recording the data structures on the write-once storage medium at a predefined fixed location on the write-once storage medium, wherein the predefined fixed location is a location on the write-once storage medium that corresponds to a location that is predefined for a rewritable storage medium, wherein the predefined fixed location is different location on the write-once storage medium than the predefined temporary location.

Regarding Claim 7, A write-once storage medium that is finalized, the write-once storage medium comprising data

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structures including space bit map and defect management structures, wherein the data structures are recorded on the write-once storage medium at a predefined temporary location in a reserved area on the write-once storage medium and the data structures are recorded on the write-once storage medium at a predefined fixed location on the write-once storage medium, wherein the predefined fixed location is a location on the write-once storage medium that corresponds to a location that is predefined for a rewritable storage medium, wherein the predefined fixed location is a different location on the write-once storage medium than the predefined temporary location, and wherein the space bit map indicates written and free areas, the defect management structures indicating the locations of rewritten data for respective track defects.

The features indicated above, in combination with the other elements of the claims, are not anticipated by, nor made obvious over, the prior art of record.

8. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Kim CHU whose telephone number is (571) 272-7585 between 9:30 am to 6:00 pm, Monday to Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hoa Nguyen, can be reached on (571) 272-7579.

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The fax number for the organization where this application or proceeding is assigned is (571) 273-8300

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished application is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9191 (toll free).

/Kim-Kwok CHU/
Examiner AU2627
June 27, 2011

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/HOA T NGUYEN/

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